

RECEIVED  
08 AUG 25 2008  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
5910

1 **PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

2 Name Rodriguez Jernay Rechurnd  
(Last) (First) (Initial)

3 Prisoner Number P-16162

4 Institutional Address California Men's Colony, P.O. Box 8101  
5 San Luis Obispo, California 93409-8101

6 **UNITED STATES DISTRICT COURT**  
7 **NORTHERN DISTRICT OF CALIFORNIA**

CW

8 Jernay Rechurnd Rodriguez CV

9 (Enter the full name of plaintiff in this action.)

08

4036

Case No. BA 131909

(To be provided by the clerk of court)

(PR)

10 vs.  
John Marshall, Warden

11 }  
12 E-filing  
13 }  
14 (Enter the full name of respondent(s) or jailer in this action)  
15 }

PETITION FOR A WRIT  
OF HABEAS CORPUS

Formal questions of  
Law as to State conviction  
And Sentence.

16 **Read Comments Carefully Before Filling In**

17 **When and Where to File**

18 You should file in the Northern District if you were convicted and sentenced in one of these  
19 counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa,  
20 San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in  
21 this district if you are challenging the manner in which your sentence is being executed, such as loss of  
22 good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

23 If you are challenging your conviction or sentence and you were not convicted and sentenced in  
24 one of the above-named fifteen counties, your petition will likely be transferred to the United States  
25 District Court for the district in which the state court that convicted and sentenced you is located. If  
26 you are challenging the execution of your sentence and you are not in prison in one of these counties,  
27 your petition will likely be transferred to the district court for the district that includes the institution  
where you are confined. Habeas L.R. 2254-3(b).

RECEIVED

IN PRO SE  
NO ENVELOPE ??

**QUESTION(S) PRESENTED**

1. Whether the prosecutors violated the defendant's 14<sup>TH</sup> Amendment Rights when one prosecutor sentenced defendant to one count, by plea, that was dismissed prior to sentencing in an Amended information filed by another prosecutor.
2. Whether the court and prosecution violated the defendant's 5<sup>TH</sup>, 6<sup>TH</sup> and 14<sup>TH</sup> Amendment Rights to be notified of what charges to be faced when he was sentenced to a charge his name was deleted from even though he pleaded to the deleted charge prior.
3. Whether the court and prosecution violated the defendant's 5<sup>TH</sup>, 6<sup>TH</sup> and 14<sup>TH</sup> Amendment Rights to trial when an Amended Information deleted defendant's name from the charge he plead to, after he waived his Rights, without an opportunity to plead anew.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

### Constitution of the United States Amendment V

#### Criminal Proceedings and Condemnation of property

[Section 1.] No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the Land...; nor shall any person be subject... to be twice put in jeopardy of life or limb; nor be compelled... to be a witness against himself, nor be deprived of life, liberty, or property, without due process of Law... Ibid.

### Amendment VI

#### Mode of Trial in Criminal Proceedings

[Section 1.] In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed... and be informed of the nature and cause of the accusation... and to have the assistance of counsel for his defense. Ibid

### Amendment XIV

#### Citizenship, Representation, and Payment of Public Debt

##### Citizenship

[Section 1.] All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

### California Constitution Article I

#### Felony defendants before magistrate - Prosecutions

[Section 14.] Felonies shall be prosecuted as provided by law, either by indictment or, after examination and commitment by a magistrate, by information.

A person charged with a felony by complaint subscribed under penalty of perjury and on file in a court... shall be taken without unnecessary delay before a magistrate of the court. The magistrate shall immediately give the defendant a copy of the complaint, inform the defendant of the defendant's rights to counsel, allow defendant a reasonable time to send for counsel, and on the defendant's request read the complaint to the defendant... Ibid

#### Criminal Prosecutions - Right of defendant - Due Process of Law -

#### Jeopardy - Depositions - Assistance of Counsel

[Section 15.] The defendant in a criminal cause has the right to a speedy public trial, to compel attendance of witnesses... to have the assistance of counsel for the defendant's defense, to be personally present with counsel, and to be confronted with the witnesses against the defendant... Ibid

Persons may not be twice put in jeopardy for the same offense, be compelled in a criminal cause to be a witness against themselves, or be deprived of life, liberty, or property without due process of law.

1 Constitutional Rights - Rights Reserved

2 [Section 24.] Rights guaranteed by this Constitution  
 3 are not dependant on those guaranteed by the United States  
 4 Constitution.

5 In criminal cases the rights of a defendant to equal  
 6 protection of the laws, to due process of law, to the  
 7 assistance of counsel, to be personally present with counsel,  
 8 to a speedy and public trial, to compel the attendance of  
 9 witnesses, to confront the witnesses against you, to be free from  
 10 unreasonable search and seizures, to privacy, to not be  
 11 compelled to be a witness against yourself, to be not placed  
 12 twice in jeopardy for the same offence, and to not suffer the  
 13 imposition of cruel and unusual punishment, shall be construed  
 14 by the courts of the state in a manner consistant with the  
 15 constitution of the United States. This constitution shall not  
 16 be construed by the courts to afford greater rights to  
 17 criminal defendants than those afforded by the constitution  
 18 of the United States, nor shall it be construed to afford  
 19 greater rights to minors... Ibid

21 California Penal Code

22 [Section 1009.] Amendment of accusatory instrument

23 An indictment, accusation or information may be  
 24 amended by the district attorney, and an amended complaint  
 25 may be filed by the prosecuting attorney... without leave  
 26 of court at any time before the defendant pleads... The  
 27 court in which an action is pending may order or permit

1 an Amendment of an indictment, accusation or information, or  
 2 the filing of an Amended Complaint, for any defect or  
 3 insufficiency, at any stage of the proceedings... the  
 4 defendant shall be required to plead to such amendment or  
 5 amended pleadings forthwith, or, at the time fixed for  
 6 pleading, if he has not yet pleaded and the trial or other  
 7 proceeding shall continue as if the pleading had been  
 8 originally filed as amended, unless the substantial rights of  
 9 the defendant would be prejudiced thereby, in which event  
 10 a reasonable postponement, not longer than the ends of  
 11 justice require, may be granted. ... Ibid

14 [Section 1016.] Permissible Pleas; Effect of Plea of Nolo  
 15 Contendere; Presumption of Sanity

16 There are six kinds of pleas to an indictment  
 17 or an information, or to a complaint charging an offense  
 18 triable in court:

1. Guilty
2. Not Guilty
3. Nolo contendere
4. A former judgment of conviction or acquittal
5. Once in Jeopardy, and
6. Not guilty by reason of Insanity

26 A defendant who does not plead guilty may enter  
 27 one or more of the other pleas. ... Ibid.

28

A conviction  Parole  
 A sentence  Credits  
 Jail or prison conditions  Prison discipline

Other (specify): Questions on Due Process as to Amendments

1. Your name: JORWAY RECHURN RODRIGUEZ
2. Where are you incarcerated? California Mens Colony
3. Why are you in custody?  Criminal Conviction  Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

- a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

Circumstantial Kidnap Murder

- b. Penal or other code sections: P.C. 187(a), 190.1(A), 190.1(A)(7), 209(a)
- c. Name and location of sentencing or committing court: Los Angeles Criminal Court Building  
111 South Spring Street, Los Angeles, California 90012
- d. Case number: BA131909
- e. Date convicted or committed: December 4<sup>th</sup>, 1997
- f. Date sentenced: September 15<sup>th</sup>, 1998
- g. Length of sentence: 25 years to Life
- h. When do you expect to be released? 2017 MePD

- i. Were you represented by counsel in the trial court?  Yes.  No. If yes, state the attorney's name and address:

Albert Deblanc

4. What was the LAST plea you entered? (check one)

Not guilty  Guilty  Nolo Contendere  Other: \_\_\_\_\_

5. If you pleaded not guilty, what kind of trial did you have?

Jury  Judge without a jury  Submitted on transcript  Awaiting trial

## 6. GROUNDS FOR RELIEF

**Ground 1:** State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

Petitioner was denied the right to plead anew to an Amended Information he was not to be sentenced to a charge his name is deleted from.

## a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. If necessary, attach additional pages. CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: who did exactly what to violate your rights at what time (when) or place (where). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

Prosecutor, Eleanor J. Hunter, Amended another Prosecutor's, Annie Ingalls, Information, before sentencing, deleting petitioner's name from the information as to his conviction charge. (Exhibit A And B) However, Petitioner was sentenced to charge deleted by court anyway.

## b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

Santobello v. New York (1971) 404 U.S. 257  
Penal Code section 1009

Petitioner has a right to seek relief from A Plea if his name is deleted from his information even under A Plea.

a. Supporting facts:

Petitioner's name is deleted from the information prior to sentencing do to An Amended Information. However, Petitioner WAS sentenced to deleted count. (Exhibit C)

b. Supporting cases, rules, or other authority:

MUNS v. Superior Court (1955) 137 C.A.R.D 728

U.S. v. Pacheco (9<sup>th</sup> Cir 1990) 912 F.2d 297

Peo. v. Leech (1965) 42 C.R. 745, 237 C.A.2d 397

1 Ground 3:

2 Petitioner has a right to jury trial, even though  
3 trial was waived on plea, once an Amended  
4 Information arises.

5  
6 Supporting facts:

7 Petitioner plead nolo contendere waiving his  
8 right to jury trial prior to the Amendment.  
9 However, petitioner never had an opportunity to  
10 plead anew to the Amendment nor could he invoke  
11 his right to trial.

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23 Supporting Cases:

24 Muns v. Superior Court (1955) 137 C.A.2d 728  
25 Pec. v. Hopkins (1974) 39 C.A. 3d 107

8. Did you appeal from the conviction, sentence, or commitment?  Yes.  No. If yes, give the following information:

a. Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court"):

---

b. Result: \_\_\_\_\_ c. Date of decision: \_\_\_\_\_

d. Case number or citation of opinion, if known: \_\_\_\_\_

e. Issues raised: (1) \_\_\_\_\_

(2) \_\_\_\_\_

(3) \_\_\_\_\_

f. Were you represented by counsel on appeal?  Yes.  No. If yes, state the attorney's name and address, if known:

---

9. Did you seek review in the California Supreme Court?  Yes.  No. If yes, give the following information:

a. Result: \_\_\_\_\_ b. Date of decision: \_\_\_\_\_

c. Case number or citation of opinion, if known: \_\_\_\_\_

d. Issues raised: (1) \_\_\_\_\_

(2) \_\_\_\_\_

(3) \_\_\_\_\_

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:

---

N/A

---

11. Administrative Review:

a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

N/A

---



---



---



---



---



---



---



---



---

b. Did you seek the highest level of administrative review available?  Yes.  No.  
Attach documents that show you have exhausted your administrative remedies.

12. Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction, commitment, or issue in any court?  Yes. If yes, continue with number 13.  No. If no, skip to number 15.

Case 4:08-cv-04036-CW Document 1 Filed 08/25/2008 Page 12 of 14

13. a. (1) Name of court California Superior Court  
(2) Nature of proceeding (for example, "habeas corpus petition"): Certificate of Probable Cause  
(3) Issues raised: (a) Due Process issues.  
(b)  
(4) Result (Attach order or explain why unavailable): Denied  
(5) Date of decision: February 17<sup>th</sup>, 2005 (Appendix A)

b. (1) Name of court California Superior Court  
(2) Nature of proceeding: Petition for Modification of Sentence  
(3) Issues raised: (a) Due Process issues.  
(b)  
(4) Result (Attach order or explain why unavailable): Denied  
(5) Date of decision: December 1<sup>st</sup>, 2006 (Appendix B)

c. For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:

No Hearings held.

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.)

Petitioner is raising questions of law that was previously unavailable to petitioner due to absence of remedy.

16. Are you presently represented by counsel?  Yes.  No. If yes, state the attorney's name and address, if known:

17. Do you have any petition, appeal, or other matter pending in any court?  Yes.  No. If yes, explain:

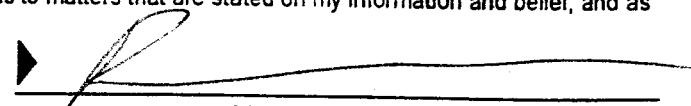
U.S. Supreme Court as Writ of Certiorari

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

Questions of law that need to be answered with clarity in this court because lower courts wouldn't answer.

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: August 13<sup>th</sup>, 2008

  
(SIGNATURE OF PETITIONER)

1 C.a.l. California Court of Appeals  
2 2. Petition for Writ of Error Causa Vobis  
3 3.(a), Due Process issues.

4 4. Denied Summarily  
5 5. November 8<sup>th</sup> 2007 (Appendix C)

6 D . a. l. California Supreme Court  
7 2. Petition for writ of Habeas Corpus  
8 3.(a) Due Process issues  
9 4. Denied

10 5. July 14<sup>th</sup>, 2008  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

MINUTE ORDER  
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 02/17/05

CASE NO. BA131909

THE PEOPLE OF THE STATE OF CALIFORNIA

VS.

DEFENDANT 03: JORNAY RECHURND RODRIGUEZ

COUNT 01: 187(A) PC FEL - MURDER.

ON 02/17/05 AT 900 AM IN CENTRAL DISTRICT DEPT 101

CASE CALLED FOR MOTION

PARTIES: WILLIAM POUNDERS (JUDGE) ALBERTA P. JORDAN (CLERK)  
NONE (REP) NONE (DDA)

PURSUANT TO DEFENDANT'S WRITTEN REQUEST, AND NOT REPRESENTED BY COUNSEL

THE COURT HAS RECEIVED AND REVIEWED THE DEFENDANT'S APPLICATION  
FOR A CERTIFICATE OF PROBABLE CAUSE. THE COURT DENIES THE APPLI-  
CATION.

A COPY OF THIS MINUTE ORDER AND THE COURT'S ORDER ARE MAILED VIA  
U. S. MAIL TO:

JORNAY RODRIGUEZ P-16162  
A3-126

CALIFORNIA STATE PRISON/LOS ANGELES COUNTY  
44750 60TH STREET WEST  
LANCASTER, CA 93536

NEXT SCHEDULED EVENT:  
PROCEEDINGS TERMINATED

ORIGINAL FILED

FEB 17 2005

LOS ANGELES  
SUPERIOR COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA, )

) No. BA 131909

Plaintiff, )

) ORDER DENYING  
vs. ) CERTIFICATE OF  
Defendant. ) PROBABLE CAUSE

JORNAY RODRIGUEZ, )

)

)

Defendant's Application for a Certificate of Probable Cause filed February 16,

2005, is DENIED for failure to file a timely Notice of Appeal. (*In re Chavez* (2003) 30

Cal.4th 643, 650) Defendant was sentenced on September 15, 1998.

Dated: February 17, 2005

WILLIAM R. POUNDERS

JUDGE WILLIAM R. POUNDERS

Appendix

B  
B

**EXHIBIT A**

MINUTE ORDER  
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 12/13/06

CASE NO. BA131909

THE PEOPLE OF THE STATE OF CALIFORNIA  
VS.  
DEFENDANT 03: JORNAY RECHURND RODRIGUEZ

COUNT 01: 187(A) PC FEL - MURDER.

ON 12/01/06 AT 900 AM IN CENTRAL DISTRICT DEPT 101

CASE CALLED FOR RULING ON MOTION

PARTIES: WILLIAM POUNDERS (JUDGE) ALBERTA P. JORDAN (CLERK)  
NONE (REP) NONE (DDA)

PURSUANT TO DEFENDANT'S WRITTEN REQUEST, AND NOT REPRESENTED BY COUNSEL

\*\*\*\*\*NO COURT FILE\*\*\*\*\*

THE DEFENDANT'S PETITION FOR MODIFICATION OF SENTENCE IS READ,  
CONSIDERED AND DENIED.

A COPY OF THIS MINUTE ORDER AND THE COURT'S EXPLICIT ORDER ARE  
MAILED VIA U.S. MAIL TO THE FOLLOWING:

JORNAY RECHURND RODRIGUEZ

CDC # P-16162  
CALIFORNIA MENS COLONY  
POST OFFICE BOX 8101  
SAN LUIS OBISPO, CA 93409-8101

NEXT SCHEDULED EVENT:  
PROCEEDINGS TERMINATED

RULING ON MOTION  
PAGE NO. 1 HEARING DATE: 12/01/06

**CONFORMED COPY**  
OF ORIGINAL FILED  
Los Angeles Superior Court

DEC 01 2006

John A. Clarke, Executive Officer/Clerk  
By  Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
Plaintiff, ) No. BA 131909

) vs. ) ORDER DENYING PETITION  
JORNAY RECHURND RODRIGUEZ ) FOR MODIFICATION OF  
Defendant. ) SENTENCE

(Penal Code section 1170)

DEFENDANT RODRIGUEZ Petition for Modification of Sentence

pursuant to Penal Code section 1170 is denied for the following reasons:

1. The Court lacks jurisdiction to modify the sentence more than 120 days after the date of commitment. (Pen. Code § 1170(d))
2. Deletion of Defendant's name from Count 1 in the Amended Information after his plea does not eliminate the charge to which he pled. (Petn. Exhs. A & B)

Dated: November 28, 2006

**WILLIAM R. POUNDERS**

JUDGE WILLIAM R. POUNDERS  
CJC Department 101  
(213) 974-5777

Appendix

C  
B

**EXHIBIT B**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

In re JORNAY RODRIGUEZ,

On Habeas Corpus.

B201404

(Super. Ct. No. BA131909)

**ORDER**

THE COURT:

The court has read and considered the petition for writ of error coram vobis filed August 26, 2007. The petition is summarily denied.

COURT OF APPEAL - SECOND DIST.

**FILED**

NOV 8 - 2007

JOSEPH A. LANE Clerk

J. GUZMAN Deputy Clerk



BOREN, P. J.



ASHMANN-GERST, J.



CHAVEZ, J.

D  
Appendix

**EXHIBIT A**

**S160727**

**IN THE SUPREME COURT OF CALIFORNIA**

**En Banc**

---

---

In re JORNAY R. RODRIGUEZ on Habeas Corpus

---

The petition for writ of habeas corpus is denied. (See *In re Robbins* (1998) 18 Cal.4th 770, 780; *In re Clark* (1993) 5 Cal.4th 750.)

**SUPREME COURT  
FILED**

**JUL 16 2008**

**Frederick K. Ohlrich Clerk**

---

**Deputy**

**GEORGE**

---

**Chief Justice**

1 Mr. Jornay Rodriguez P16162  
2 CMC - East 3297X  
3 P.O. Box 8101  
4 San Luis Obispo, CA  
5 93409

6 In the California Supreme Court

7  
8 Jornay Reckord Rodriguez  
9 Plaintiff

case no. BA131909

10 v.  
11 John Marshall, Warden  
12 Defendant  
13

Motion in Support of Writ  
of Habeas Corpus.

14  
15 This motion is in support of the Habeas Corpus  
16 which is filed herewith. This motion substantiate the claims  
17 with clarity to the law of the land in the state of  
18 California and corresponding constitutional rights both from  
19 the U.S. and State. This petition should be heard to  
20 Clarify the questions presented and to further the laws  
21 of Justice.

22 Petitioner need this court to answer these  
23 questions not for himself but for the clarification and  
24 clarity of the issues state-wide.

25  
26  
27  
28

## Statement of the Case

This review is sought do to both Courts of first instance and court of Appeals, Appellate Division, passed on the Questions sought to be reviewed here.

Petitioner filed a Certificate of Probable Cause in the California Superior Court on February 16<sup>th</sup>, 2005 raising the issues being raised here. On February 17<sup>th</sup>, 2005 the Certificate was denied stating, "Defendant's Application for Certificate of Probable Cause filed February 16<sup>th</sup>, 2005, is denied for failure to file a timely Notice of Appeal. (In re Chavez (2003) 30 Cal.4<sup>th</sup> 643, 650) Defendant was sentenced on September 15<sup>th</sup>, 1998." (Appendix A).

14 In 2006 petitioners filed a petition for  
15 modification of sentence in the California Superior  
16 Court. On December 1<sup>st</sup> 2006 it was denied stating, "(1)  
17 The court lacks jurisdiction to modify the sentence more than  
18 120 days after the date of commitment (Penal Code 1170(d)), and  
19 (2) Deletion of defendant's name from count 1 in the  
20 Amended Information after his plea does not eliminate  
21 the charge to which he pled. (Petitioners' Exhibits A and B).  
22 (Appendix B).  
23

Petitioner filed a petition for writ of Error Coram  
Vobis in the California Court of Appeal on August 26<sup>th</sup>  
2007. On November 8<sup>th</sup> 2007 it was summarily denied.  
(Appendix C). This court has jurisdiction to answer  
these questions without further delay.

1 In this case the petitioner pose a series of  
 2 questions pertaining to the Due Process Rights of the  
 3 defendant.

4 (1) First question deals with one prosecutor  
 5 who sentenced defendant to one count while another  
 6 Amended the Information prior to sentence deleting  
 7 defendant's name to the charge to be sentenced to.

8 Now, if a defendant is sentenced to a charge  
 9 that his Name was deleted from it would be illegal  
 10 according to Peo. v. Leech (1965) 42 C.R. 745, 237 CA.2d  
 11 397 as well coinciding with U.S. v. Pacheco (9<sup>th</sup> Cir 1990)  
 12 912 F.2d 297. Even with the assurance of the United  
 13 States Constitutional Amendment 14 with California  
 14 Constitutional Article 1 section 14 stating a defendant  
 15 have the right to be notified of the charges against him in  
 16 order to plead and to carry out Due Process Rights on  
 17 those charges. If I'm sentenced without a charge  
 18 existing it is illegal according to these two cases.

20 The lower courts continued to deny petitioner's  
 21 rights in conflict of clearly established rulings. In  
 22 particular Santobello v. New York (1970) 404 U.S. 257  
 23 is a prime example for this question of two prosecutors  
 24 who did not confere with each other and sentenced the  
 25 defendant anyway to a term greater than what he pled  
 26 to initially.

27 The U.S. court ruled in favor of the defendant's  
 28

1 Resentencing.

2 Petitioner is being denied because the state courts  
 3 are agreeing that the deletion does not matter when it does.  
 4 According to Penal Code 1009, come in to correct defects  
 5 that were sufficient enough to warrant an amendment to  
 6 the information from evidence not shown to warrant the  
 7 deletion. If this fact is true petitioner should be able to  
 8 plead anew to the amended information and not be denied  
 9 substantial rights under prejudicial defects.

10

11 (2) Second question deals with the notice of  
 12 charges to be faced when an amendment to the information  
 13 is filed deleting the charge plead to.

14

15 Notification of the charges against a defendant,  
 16 whether adding or deleting charges, is critical to a defendant's  
 17 case due to the fact of knowing what is at stake and  
 18 what to decide as to pleading guilty or not guilty. (See  
 19 Penal Code 1016 and 1009) The U.S. Constitution Amendment  
 20 VI and California Constitution Article I section 14  
 21 states the defendant shall enjoy the right to be informed  
 22 of the nature and cause of the accusations and read the  
 23 complaint and have a copy. Now, when an amended  
 24 information accrues and a defendant is unaware that  
 25 the charge plead to is no longer valid his aspect of  
 26 rights is taken away and he is left with no other  
 27 recourse but to stay the course of the initial charges

1 until notification of change is read. But if no notification  
 2 is given the defendant is left in the blind only to be  
 3 sentenced illegally and no one would ever know. However,  
 4 when this occurs the defendant would be prejudiced to the  
 5 point that his rights were taken unaware, his innocence  
 6 destroyed, and his sentence would be illegal according to  
 7 U.S. v. Miller (1983) 715 F.2d 1360; Peo. v. Rose (1972)  
 8 104 CR. 702, 28 CA3d 415; Peo. v. Superior Court (Alvarado)  
 9 255 CR 46, 207 CA 3d 464; and Peo. v. Benton (1979) 100  
 10 CA 3d 92. These rulings were all in favor of the defendant  
 11 for various charges that were illegal and sentences that were  
 12 prohibited without charges.

13 Even though there is ample information of clearly  
 14 established rulings in favor of a defendant being resentenced  
 15 and exonerated on deleted charges the lower courts continued  
 16 to deny petitioners in conflict of these rulings and this U.S. court  
 17 rulings for relief.  
 18

19 (3) Third and final question deals with the right to  
 20 trial. If a plea of guilty waiver has been taken and an  
 21 Amendment to the Information occurs deleting the charge  
 22 plead to prior to sentencing does the defendant retain his  
 23 rights after? According to Muns v. Superior Court (1955)  
 24 137 CA 2d 728 and Peo. v. Hopkins (1974) 39 CA 3d 107 you  
 25 do. The defendant retains his rights to jury trial due to  
 26 his charge being void and the plea has no validity.  
 27

28 However, the lower courts conflict with this do

1 to its decision to deny petitionee of his Right to be Free  
 2 from deliberate injustice and an equal opportunity to be  
 3 notified and tried on sufficient charges. It is well established  
 4 that the trial court pronounced a sentence which is  
 5 unauthorized by law that must be vacated due to errors  
 6 occurring after the entry of the plea causing "future  
 7 sentencing error" that's beyond the scope of the plea waived  
 8 according to Pear. Sherrick (1993) 19 CA 4<sup>th</sup> 657, 24  
 9 CR 2d 25; Pe. v. Vargas 13 CA 4<sup>th</sup> 1662; Also see  
 10 Brady v. U.S. (1970) 397 U.S. 742, 25 LED 2d 747, 90 S.Ct.  
 11 1468.

12 The United States Constitution Amendments 14 and 16  
 13 the California Constitution Article I sections 15 and 24  
 14 guarantees the right to trial and due process. A proper  
 15 withdrawal of the plea and sentence is necessary whenever  
 16 brought to the attention of the reviewing court according to  
 17 Pe. v. Rowland (1988) 206 CA3d 119. Petitioner has  
 18 brought these issues up to the courts of first interest and  
 19 have been denied constantly in conflict of their rulings  
 20 and this courts rulings. With ample rulings in favor of  
 21 the defendants the lower courts exceeded their conflict  
 22 and began an open denial festival for petitioner's issues  
 23 requesting relief.

24  
 25 It is necessary to interview and review these  
 26 questions of law so that others of like situations do not  
 27 become victims of Due Process violations.  
 28

1 Conclusion:  
2  
3  
4  
5  
6  
7

The petitioner request an order to show cause  
if the facts are disputed and if there is no good reason  
to deny the petition please grant what ever is favorable  
to the petitioner.

8 Declaration:  
9  
10  
11  
12

Petitioner declares under penalty of perjury that  
the foregoing is true and correct.

Respectfully Submitted,

Dated: August 13<sup>th</sup>, 2008

Jorway Rechurned Rodriguez

1 Proof of Service  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I, Jonnay Reckord Rodriguez, do swear or declare that on this date August 13<sup>th</sup>, 2008, as required by law I have served the enclosed Petition for Writ of Habeas Corpus on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Honorable Judge Thelma E. Henderson  
Senior District Judge; Division 12, 18<sup>th</sup> Floor  
U.S. Courthouse  
450 Golden Gate Ave.  
San Francisco, California 94102-3483

I declare under penalty of perjury that the foregoing is the truth and is correct.

Executed: August 13<sup>th</sup>, 2008

Jonnay Reckord Rodriguez

# **EXHIBIT [A]**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

**THE PEOPLE OF THE STATE OF CALIFORNIA,** Plaintiff,

v.

**01 ANDREW LANCASTER (6/12/1972),  
02 SHAWN ALEXANDER (6/14/1976), and  
03 JORNAY RECHURND RODRIGUEZ (3/15/1976)**

Defendant(s).

CASE NO. BA131909

AUG. 07, 1996  
ADM. KRITZMAN, CLERK

INFORMATION

Arraignment: 08/06/96  
Dept: 100

Superseeded  
7/23/98

**INFORMATION  
SUMMARY**

Ct. No.	Charge	Charge Range	Check Code	Defendant	Special Allegation	Alleg. Effect
1	PC 187(A)			LANCASTER, ANDREW	PC 190.2(A)(17)	LWOP/Death
				ALEXANDER, SHAWN	PC 190.2(A)(1)	LWOP/Death
				RODRIGUEZ, JORNAY	PC 190.2(A)(17)	LWOP/Death
					PC 190.2(A)(1)	LWOP/Death
					PC 190.2(A)(17)	LWOP/Death
					PC 190.2(A)(1)	LWOP/Death
2	PC 209(A)	Life		LANCASTER, ANDREW ALEXANDER, SHAWN RODRIGUEZ, JORNAY		

The District Attorney of the County of Los Angeles, by this Information alleges that:

**COUNT 1**

On or about April 23, 1996, in the County of Los Angeles, the crime of MURDER, in violation of PENAL CODE SECTION 187(A), a Felony, was committed by ANDREW LANCASTER, SHAWN ALEXANDER, and JORNAY RECHURND RODRIGUEZ, who did willfully, unlawfully, and with malice aforethought murder MICHAEL TAYLOR, a human being.

"NOTICE: The above offense is a serious felony within the meaning of Penal Code section 1192.7(c)."

It is further alleged that the murder of MICHAEL TAYLOR was committed by defendant(s), ANDREW LANCASTER, SHAWN ALEXANDER, and JORNAY RECHURND RODRIGUEZ while the said defendant(s) was/were engaged in the commission of the crime of Kidnapping, and/or Kidnapping for

**EXHIBIT**

Ransom, within the meaning of Penal Code section 190.2(a)(17).

It is further alleged that the murder of MICHAEL TAYLOR was intentional and was carried out by the defendant(s), ANDREW LANCASTER, SHAWN ALEXANDER, and JORNAY RECHURND RODRIGUEZ for financial gain, within the meaning of Penal Code Section 190.2(a)(1).

\* \* \* \* \*

COUNT 2

On or about April 23, 1996, in the County of Los Angeles, the crime of KIDNAPPING FOR RANSOM, in violation of PENAL CODE SECTION 209(A), a Felony, was committed by ANDREW LANCASTER, SHAWN ALEXANDER, and JORNAY RECHURND RODRIGUEZ, who did willfully and unlawfully seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, and carry away MICHAEL TAYLOR with the intent to hold and detain, and who did hold and detain, the said MICHAEL TAYLOR for ransom, reward, extortion, and to exact from relatives and friends of said MICHAEL TAYLOR money.

"NOTICE: The above offense is a serious felony within the meaning of Penal Code section 1192.7(c)."

\* \* \* \* \*

EXHIBIT

THIS INFORMATION CONSISTS OF 2 COUNT(S).

GIL GARCETTI  
DISTRICT ATTORNEY  
County of Los Angeles,  
State of California

BY: Anne Ingalls  
ANNE INGALLS  
DEPUTY DISTRICT ATTORNEY

Filed in Superior Court,  
County of Los Angeles

/YTD

DATED: no date

Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defense counsel provide discovery to the People as required by Penal Code Section 1054.3.

EXHIBIT

# EXHIBIT B

000195

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

THE PEOPLE OF THE STATE OF CALIFORNIA,	Plaintiff,
v.	
01 ANDREW LANCASTER (6/12/1972) (Bk# 4820146), 02 SHAWN ALEXANDER (6/14/1976) (Bk# 4821657), and 03 JORNAY RECHURND RODRIGUEZ (3/15/1976) (Bk# 4822247)	
Defendant(s).	

CASE NO. BA131909

**AMENDED  
INFORMATION**

**FILED**  
LOS ANGELES SUPERIOR COURT

JUL 23 1998

JOHN A. CLARKE, CLERK

*H. Ramirez*

BY M. RAMIREZ, DEPUTY

**AMENDED  
INFORMATION  
SUMMARY**

Ct. No.	Charge	Charge Range	Check Code	Defendant	Special Allegation	Alleg. Effect
1	PC 187(a)			LANCASTER, ANDREW	PC 12022.5(a)(1) PC 190.2(a)(17) PC 190.2(a)(1)	+3-4-10 LWOP/Death LWOP/Death
				ALEXANDER, SHAWN	PC 190.2(a)(17) PC 190.2(a)(1)	LWOP/Death LWOP/Death
2	PC 209(a)	LWOP		LANCASTER, ANDREW ALEXANDER, SHAWN RODRIGUEZ, JORNAY	PC 12022.5(a)(1)	+3-4-10

The District Attorney of the County of Los Angeles, by this Amended Information alleges that:

**COUNT 1**

On or about April 23, 1996, in the County of Los Angeles, the crime of MURDER, in violation of PENAL CODE SECTION 187(a), a Felony, was committed by ANDREW LANCASTER and SHAWN ALEXANDER, who did unlawfully, and with malice aforethought murder MICHAEL TAYLOR, a human being.

"Notice: The above offense is a serious felony within the meaning of Penal Code section 1192.7(c)."

It is further alleged that the murder of MICHAEL TAYLOR was committed by defendant(s) SHAWN ALEXANDER while the said defendant(s) was/were engaged in the commission of the crime of

**EXHIBIT**

KIDNAPPING, within the meaning of Penal Code section 190.2(a)(17).

It is further alleged that the murder of MICHAEL TAYLOR was intentional and was carried out by the defendant(s), SHAWN ALEXANDER for financial gain, within the meaning of Penal Code Section 190.2(a)(1).

It is further alleged that the murder of MICHAEL TAYLOR was committed by defendant(s), ANDREW LANCASTER while the said defendant(s) was/were engaged in the commission of the crime of Kidnapping, within the meaning of Penal Code section 190.2(a)(17).

It is further alleged that the murder of MICHAEL TAYLOR was intentional and was carried out by the defendant(s), ANDREW LANCASTER for financial gain, within the meaning of Penal Code Section 190.2(a)(1).

\* \* \* \*

## COUNT 2

On or about April 23, 1996, in the County of Los Angeles, the crime of KIDNAPPING FOR RANSOM, in violation of PENAL CODE SECTION 209(a), a Felony, was committed by ANDREW LANCASTER, SHAWN ALEXANDER, and JORNAY RECHURND RODRIGUEZ, who did unlawfully seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, and carry away MICHAEL TAYLOR with the intent to hold and detain, and who did hold and detain, the said MICHAEL TAYLOR for ransom, reward, extortion, and to exact from relatives and friends of said MICHAEL TAYLOR money and other valuable things.

"Notice: The above offense is a serious felony within the meaning of Penal Code section 1192.7(c)."

It is further alleged that the said victim, MICHAEL TAYLOR, while being subjected to said kidnapping, suffered bodily harm and death, and was intentionally confined in a manner which exposed him/her to a substantial likelihood of death, within the meaning of Penal Code Section 209(a).

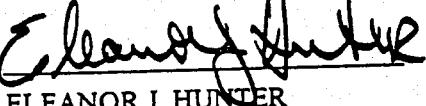
EXHIBIT

It is further alleged as to count(s) 1 and 2 that in the commission and attempted commission of the above offense, the said defendant(s), ANDREW LANCASTER, personally used a firearm(s), to wit: HANDGUN, within the meaning of Penal Code sections 1203.06(a)(1) and 12022.5(a)(1) also causing the above offense to become a serious felony pursuant to Penal Code section 1192.7(c)(8) and a violent felony within the meaning of Penal Code section 667.5(c)(8).

\* \* \* \*

THIS AMENDED INFORMATION CONSISTS OF 2 COUNT(S).

GIL GARCETTI  
DISTRICT ATTORNEY  
County of Los Angeles,  
State of California

BY:   
ELEANOR J. HUNTER  
DEPUTY DISTRICT ATTORNEY

Filed in Superior Court,  
County of Los Angeles

DATED: \_\_\_\_\_

/CA

Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defense counsel provide discovery to the People as required by Penal Code Section 1054.3.

# **EXHIBIT C**

MINUTE ORDER  
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 12/04/97

CASE NO. BA131909

THE PEOPLE OF THE STATE OF CALIFORNIA  
VS.  
DEFENDANT #3: JORNAY RECHURND RODRIGUEZ

COUNT #1: 187(A) PC FEL - MURDER.

COUNT #2: 209(A) PC FEL - KIDNAPPING FOR RANSOM.

ON 12/04/97 AT 830 AM IN L.A. SUPERIOR - CENTRAL DEPT 106

CASE CALLED FOR JURY TRIAL

PARTIES: ANDREW KAUFFMAN (JUDGE) MARIANNE CALVIN (CLERK)  
CARMEN YOUNG (REP) ANNE INGALLS (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY A. DEBLANC JR. BAR PANEL  
ATTORNEY

DEFENDANT ADVISED OF AND PERSONALLY AND EXPLICITLY WAIVES THE FOLLOWING RIGHTS:

TRIAL BY COURT AND TRIAL BY JURY

CONFRONTATION AND CROSS-EXAMINATION OF WITNESSES:

SUBPOENA OF WITNESSES INTO COURT TO TESTIFY IN YOUR DEFENSE:

AGAINST SELF-INCRIMINATION;

DEFENDANT ADVISED OF THE FOLLOWING:

THE POSSIBLE CONSEQUENCES OF A PLEA OF GUILTY OR NOLO CONTENDERE, INCLUDING THE  
MAXIMUM PENALTY AND ADMINISTRATIVE SANCTIONS AND THE POSSIBLE LEGAL EFFECTS  
AND MAXIMUM PENALTIES INCIDENT TO SUBSEQUENT CONVICTIONS FOR THE SAME OR  
SIMILAR OFFENSES:

THE EFFECTS OF PROBATION:

IF YOU ARE NOT A CITIZEN, YOU ARE HEREBY ADVISED THAT A CONVICTION OF THE  
OFFENSE FOR WHICH YOU HAVE BEEN CHARGED MAY HAVE THE CONSEQUENCES OF  
DEPORTATION, EXCLUSION FROM ADMISSION TO THE UNITED STATES, OR DENIAL OF  
NATURALIZATION PURSUANT TO THE LAWS OF THE UNITED STATES:

THE COURT FINDS THAT EACH SUCH WAIVER IS KNOWINGLY, UNDERSTANDINGLY, AND  
EXPLICITLY MADE: COUNSEL JOINS IN THE WAIVERS

THE DEFENDANT WITH THE COURTS APPROVAL, PLEADS NOLO CONTENDERE TO COUNT #1 A

JURY TRIAL  
PAGE NO. 1 HEARING DATE: 12/04/97

EXHIBIT

CASE NO. BA131909  
DEF NO. 03

DATE PRINTED 12/04/97

VIOLATION OF SECTION 187(A) PC. THE COURT FINDS THE DEFENDANT GUILTY.

COUNT (01) : DISPOSITION: CONVICTED

COURT ORDERS AND FINDINGS:

-THE DEFENDANT IS REFERRED TO THE PROBATION DEPARTMENT.

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

COURT ACCEPTS PLEA

DEFENDANT PLEADS NOLO CONTENDERE TO COUNT 1, A VIOLATION OF  
SECTION 187(A) PENAL CODE, IN THE FIRST DEGREE.

THE COURT ORDERS THE COURT REPORTER TO PREPARE AN ORIGINAL  
TRANSCRIPT AND TWO COPIES OF THE PROCEEDINGS HELD THIS DATE.  
ORIGINAL TRANSCRIPT TO THE LEGAL FILE AND COPIES TO RESPECTIVE  
COUNSEL.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:  
02/24/98 900 AM PROBATION AND SENTENCE HEARING DIST L.A. SUPERIOR -  
CENTRAL DEPT 106

CUSTODY STATUS: DEFENDANT REMANDED

JURY TRIAL  
PAGE NO. 2 HEARING DATE: 12/04/97

EXHIBIT

MINUTE ORDER  
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 09/15/98

B187886

CASE NO. BA131909

THE PEOPLE OF THE STATE OF CALIFORNIA  
VS.  
DEFENDANT #3: JORNAY RECHURND RODRIGUEZ

COUNT #1: 187(A) PC FEL - MURDER.

COUNT #2: 209(A) PC FEL - KIDNAPPING FOR RANSOM.

ON 09/15/98 AT 900 AM IN L.A. SUPERIOR - CENTRAL DEPT 106

CASE CALLED FOR PROBATION AND SENTENCE HEARING

PARTIES: ANDREW KAUFFMAN (JUDGE) MARIANNE CALVIN (CLERK)  
CARMEN YOUNG (REP) ANNE INGALLS (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY A. DEBLANC JR. BAR PANEL ATTORNEY

IMPRISONED IN STATE PRISON FOR A TOTAL OF 025 YEARS TO LIFE

COURT ORDERS PROBATION DENIED.

025 YEARS TO LIFE IMPRISONMENT AS TO THE BASE COUNT (#1)

IN ADDITION:

-THE DEFENDANT IS TO PAY A RESTITUTION FINE PURSUANT TO SECTION 1202.4(B) PENAL CODE IN THE AMOUNT OF \$ \$10,000. (\$5,000 IS SUSPENDED UNLESS AND UNTIL THE DEFENDANT VIOLATES PAROLE.)

-MAKE RESTITUTION TO THE FAMILY OF THE VICTIM, MICHAEL TAYLOR, FOR FUNERAL AND BURIAL COSTS PURSUANT TO SECTION 1203.04 PENAL CODE PROVIDED THEY FILE A WRITTEN CLAIM WITH SUPPORTING DOCUMENTATION BY JANUARY 13, 1999. THE DEFENDANT WAIVES HIS APPEARANCE FOR A RESTITUTION HEARING AND AGREES THAT HIS COUNSEL MAY REPRESENT HIS INTERESTS.

COUNSEL FOR THE PEOPLE IS TO GIVE NOTICE TO THE FAMILY OF THE VICTIM.

COURT ORDERS AND FINDINGS:

-THE COURT ADVISES THE DEFENDANT OF PAROLE RIGHTS.

AS TO COUNT 1, THE COURT IMPOSES THE TERM OF 25 YEARS TO LIFE.

PAGE NO. 1 PROBATION AND SENTENCE HEARING  
HEARING DATE: 09/15/98

EX-1

CASE NO. BA131909  
DEF NO. 03

DATE PRINTED 09/15/98

THE DEFENDANT IS GIVEN TOTAL CREDIT OF 1,006 DAYS IN CUSTODY.  
(875 DAYS ACTUAL CUSTODY AND 131 DAYS GOOD TIME/WORK TIME.)

NOTE: NO LEGAL FILE IS PRESENT IN COURT. THE LEGAL FILE IS  
CURRENTLY IN THE APPEALS UNIT.

COUNT (01): DISPOSITION: CONVICTED

REMAINING COUNTS DISMISSED.

COUNT (02): DISMISSED DUE TO PLEA NEGOTIATION

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:  
PROCEEDINGS TERMINATED

CUSTODY STATUS: DEFENDANT REMANDED

PAGE NO. 2

PROBATION AND SENTENCE HEARING  
HEARING DATE: 09/15/98

EXHIBIT

000245

FORM CR 292

ABSTRACT OF JUDGMENT - PRISON COMMITMENT  
INDETERMINATE SENTENCE

SUPERIOR  
 MUNICIPAL  
 JUSTICE

COURT (D.)  
190001

COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

BRANCH OR JUDICIAL DISTRICT: CENTRAL CRIMINAL

PEOPLE OF THE STATE OF CALIFORNIA versus

DEFENDANT: RODRIGUEZ, JORNAY RECHURND

AKA:

COMMITMENT TO STATE PRISON

ABSTRACT OF JUDGMENT

DATE OF HEARING (ADJ. COURT) (7/9)

REPORTER

CARMEN YOUNG

COUNSEL FOR PEOPLE

ANNE INGALLS

COUNSEL FOR DEFENDANT

ANDREW KAUFFMAN

JUDGE

A DEBLANCE, JR.

CLERK

MARIANNE CALVIN

EXAMINER OFFICER

X1679255

 PRESENT

BA131909 -A

-B

-C

-D

-E

 NOT PRESENT

AMENDED

ABSTRACT 

LOS ANGELES SUPERIOR COURT  
 OCT 09 1998  
 JOHN A. CLARKE, CLERK  
 BY C WIGGINS-KING, DEPUTY

1. DEFENDANT WAS CONVICTED OF THE COMMISSION OF THE FOLLOWING OFFENSES:

 ADDITIONAL COUNTS ARE LISTED ON ATTACHMENT (NUMBER OF PAGES)

COUNT	CODE	SECTION NUMBER	CRIME	YEAR DEFENDANT COMMITTED	DATE OF CONVICTION	COMMITTED BY	DEFENDANT	CONVICTION	INDICTMENT	DISP.
1	PC	187(A)	MURDER	96	12/04/97	X				

2. ENHANCEMENTS charged and found true TIED TO SPECIFIC COUNTS (mainly in the § 12022-series) including WEAPONS, BURGLAR, LARGE AMOUNTS OF CONTROLLED SUBSTANCES, BAIL STUITS, ETC. For each count list enhancements horizontally. Enter time imposed for each or "S" for stayed or stricken. DO NOT LIST enhancements charged but not found true or stricken under § 1385. Add up time for enhancements on each line and enter line total in right-hand column.

Count	Enhancement	Yrs. or "S"	Total								

3. ENHANCEMENTS charged and found true FOR PRIOR CONVICTIONS OR PRIOR PRISON TERMS (mainly § 667-series) and OTHER: List all enhancements based on prior convictions or prior prison terms charged and found true. If 2 or more under the same section, repeat it for each enhancement (e.g., if 2 non-violent prior prison terms under § 667(c)(2), list § 667(c)(2) twice). Enter time imposed for each or "S" for stayed or stricken. DO NOT LIST enhancements charged but not found true or stricken under § 1385. Add time for these enhancements and enter total in right-hand column. Also enter here any other enhancement not provided for in section 2.

Enhancement	Yrs. or "S"	Total								

4. Defendant was sentenced to State Prison for an indeterminate term

A.  For LIFE WITHOUT THE POSSIBILITY OF PAROLE on counts \_\_\_\_\_  
 B.  For LIFE WITH POSSIBILITY OF PAROLE on counts \_\_\_\_\_  
 C.  For other term prescribed by law on counts \_\_\_\_\_

E.  For 15 years to life, WITH POSSIBILITY OF PAROLE on counts \_\_\_\_\_  
 D.  For 25 years to life, WITH POSSIBILITY OF PAROLE on counts \_\_\_\_\_  
 (Specify term on separate sheet if necessary)

PLUS enhancement time shown above.

5.  Indeterminate sentence shown on this abstract to be served  consecutive to  concurrent with any prior incomplete sentence(s).

6. Other Criminal (List all consecutive/concurrent sentence relationships. Area, etc. if not shown above)

PAY RESTITUTION FINE PER 1202.4(B) PC FOR \$10,000.00. (\$5,000 IS SUSPENDED UNLESS AND UNTIL THE DEFENDANT VIOLATES PAROLE.)

MAKE RESTITUTION TO THE FAMILY OF THE VICTIM, MICHAEL TAYLOR, FOR FUNERAL AND BURIAL COSTS PER 1203.04 PC. PROVIDED THEY FILE A WRITTEN CLAIM WITH SUPPORTING DOCUMENTATION BY JANUARY 13, 1999. COUNSEL FOR THE PEOPLE IS TO GIVE NOTICE TO THE FAMILY OF THE VICTIM.  
(See an addendum page if necessary.)7.  The Court advised the defendant of all appeal rights in accordance with rule 470, California Rules of Court. (AFTER TRIAL ONLY)

8. EXECUTION OF SENTENCE IMPOSED:

A.  AT INITIAL SENTENCING    B.  AT RESENTENCING PURSUANT TO HEARING    C.  AFTER REVOCATION OF PROBATION    D.  AT RESENTENCING PURSUANT TO RECALL OF COMMITMENT (PC § 1466)

E.  OTHER

DATE OF SENTENCE pronounced 9/20/98	CREDIT FOR TIME SPENT IN CUSTODY 9-15-98	TRAIL DAYS 1,006	ACTUAL LEGAL TIME 875	LEGAL CREDITS 131	SPEC. INSTITUTIONS DAW
--	---	---------------------	--------------------------	----------------------	---------------------------

10. DEFENDANT IS REMANDED TO THE CUSTODY OF THE SHERIFF, TO BE DELIVERED:

PORTRITH  
 AFTER 48 HOURS, EXCLUDING SATURDAYS, SUNDAYS AND HOLIDAYS  
 INTO THE CUSTODY OF THE DIRECTOR OF CORRECTIONS AT THE RECEPTION-GUIDANCE CENTER LOCATED AT:

CALIF. INSTITUTION FOR WOMEN—FRONTERA  
 MARINA  
 SAN QUENTIN  
 OTHER (SPECIFY) \_\_\_\_\_

CALIF. INSTITUTIONS FOR MENS—CHIAGO  
 R.I. DORIAN

CLERK OF THE COURT

DEPUTY'S SIGNATURE

C. WIGGINS-KING

DATE

OCTOBER 9, 1998

This form is prescribed under Penal Code § 1213.3 to satisfy the requirements of § 1202 for indeterminate sentences. Attachments may be used but need be referred to in this document.

Form Approved by the  
Judicial Council of California  
Effective January 1, 1993

DISTRIBUTION

PBM COPY—COURT FILE

YELLOW COPY—DEPARTMENT OF CORRECTIONS

WHITE COPY—ADMINISTRATIVE OFFICE OF THE COURTS

ABSTRACT OF JUDGMENT - PRISON COMMITMENT - INDETERMINATE  
CR 292

PL 11-12G1

EXHIBIT